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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOUG LITTLE, Chairman
BOB STUMP
ROBERT BURNS
TOM FORESE
ANDY TOBIN

Arizona Corporation Commission

DOCKETED

FEB 25 2016

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AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE FORMAL
COMPLAINT OF SWING FIRST GOLF LLC
AGAINST JOHNSON UTILITIES LLC

DOCKET NO. WS-02987A-16-0017

SUPPLEMENT TO FORMAL
COMPLAINT

1 To incorporate recent developments, Swing First Golf, LLC ("Swing First") hereby
2 supplements its Complaint against Johnson Utilities, LLC ("Utility"). Utility has formally
3 notified Swing First that it has discontinued tariffed Effluent deliveries, effective yesterday,
4 February 24, 2016. A copy of Utility's notice is attached as Exhibit A.

5 Utility has not received Commission authorization to discontinue its tariffed Effluent
6 sales. In Opinion and Order No. 60223, dated May 27, 1997, the Commission authorized Utility
7 to deliver and sell Effluent at the rate of \$0.62 per thousand gallons (\$200 per acre-foot). These
8 rates were incorporated into Utility's approved wastewater tariff. In Opinion and Order No.
9 72579, dated October 1, 2011, the Commission approved a slight rate increase for Effluent sales
10 to \$0.63 per thousand gallons (\$205.29 per acre-foot).

11 In both cases, the Commission authorized these sales and rates after full due process,
12 including notice, hearings, and due consideration by the Commission. Yet, Utility has
13 discontinued its tariffed Effluent sales without providing its customers any due process at all.
14 Utility's action is unlawful. It could not sell Effluent without Commission authorization. It
15 cannot vary the terms of its tariff without Commission authorization. And, it certainly cannot
16 stop selling Effluent altogether without Commission authorization.

17 Utility seems to believe that its tariff allows it to sell Effluent "as available." There is
18 nothing in the tariff or the Commission's Orders that support that view. It is only Utility's

1 unilateral action to withhold Effluent and put it to a different use that have made it unavailable.
2 This is no more lawful than if Southwest Gas were to discontinue gas sales to (existing) customer
3 number one in favor of (new) customer number two and justify it because the gas was no longer
4 "available" to customer number one. In both cases, only the company's unilateral action would
5 make the commodity unavailable.

6 Utility's attached notice states "Beginning on February 24, 2015, Johnson Utilities will
7 begin serving you non-potable water pursuant to the Johnson Utilities tariff." Utility's tariff
8 authorizes Utility to sell non-potable water at the rate of \$0.84 per thousand gallons plus the
9 applicable CAGR fee. In Decision No. 75462, dated February 16, 2016, the Commission set
10 Utility's 2016 CAGR fee at \$2.52 per thousand gallons. The total non-potable water rate is
11 now \$3.36 per thousand gallons, over five times the Effluent rate of \$0.63 per thousand gallons.
12 If the Commission allows Utility to unilaterally discontinue its tariffed Effluent sales, Swing
13 First's annual irrigation bill will soar from approximately \$100,000 per year to over \$500,000
14 per year!

15 The effect of Utility's unlawful action would be catastrophic. Swing First competes in
16 the very competitive market for golf customers and it would be impossible for it to increase
17 greens fees enough to recover quintupled water costs. Swing First would be forced out of
18 business. And the consequences of Utility's unlawful action would extend beyond Swing First.
19 Property values would plummet for the thousands of existing Johnson Ranch homeowners when
20 their beautiful golf course degenerated to weeds, snakes, and bare dirt.

21 Utility's discontinuation of Effluent sales is not only unlawful, but contrary to established
22 Commission policy. Utility intends to sell groundwater to Swing First for irrigation. Yet, the
23 Commission has routinely prohibited utilities from selling groundwater for golf course irrigation.

24 IT IS FURTHER ORDERED that in light of the on-going drought conditions in
25 Arizona and the need to conserve groundwater, Willow Springs Utilities is
26 prohibited from selling groundwater for the purpose of irrigating any golf course,
27 or any ornamental lakes or water features located in the common areas of the
28 development.

1 *Willow Springs Utilities, LLC*, Decision No. 68963, dated September 21, 2006, at 16:19-22.¹

2 The Commission's strong preference in favor of effluent irrigation for golf courses is
3 consistent with overall Arizona public policy. For example, the City of Scottsdale's municipal
4 utility currently supplies effluent for irrigating 23 golf courses, making it a global leader in the
5 use of recycled water. [http://www.scottsdaleaz.gov/news/scottsdale-water-recognized-as-](http://www.scottsdaleaz.gov/news/scottsdale-water-recognized-as-global-leader-in-recycled-water-use_s4_p21798)
6 [global-leader-in-recycled-water-use_s4_p21798](http://www.scottsdaleaz.gov/news/scottsdale-water-recognized-as-global-leader-in-recycled-water-use_s4_p21798). This is consistent with Arizona's vision:

7 Treating wastewater and using the resulting effluent to meet a range of beneficial
8 purposes is increasingly important, especially in water-scarce regions such as
9 the desert Southwest.

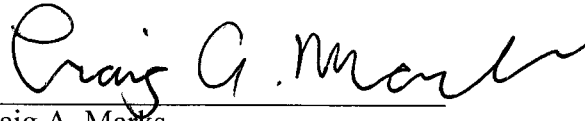
10 "Water Reuse in Central Arizona, a Technical Report by Decision Center for a Desert City" at
11 21.²

12 Again, in this Complaint, Swing First is not asking the Commission to determine whether
13 Utility should be allowed to stop selling Effluent for irrigation and instead pump and sell
14 groundwater. This is clearly a terrible idea, but if this is what Utility wants to do, the
15 Commission should evaluate Utility's proposal only after a thorough evidentiary hearing. For
16 now, as if more fully set forth in its Complaint, Swing First is only asking the Commission to
17 order Utility to continue providing Effluent to Swing First and other customers at its tariffed rate
18 until such time, if ever, that it receives authorization from the Commission.

¹ Accord: *Chaparral City Water Company*, Decision No. 68176; *Arizona Water Company*, Decision No. 68919; *Pichaco Water Company*, Decision No. 69174; *Green Acres Water LLC*, Decision No. 69256; *Double Diamond Utilities LLC*, Decision No. 70352; *Perkins Mountain Utility Company*, Decision No. 70663; *Wickenburg Ranch Water LLC*, Decision No. 70741; and *ICR Water Users Association, Inc.*, Decision No. 70977.

² https://sustainability.asu.edu/docs/dcdc/website/documents/DCDC_WaterReuse_Final.pdf

1 RESPECTFULLY SUBMITTED on February 25, 2016.
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3

4 
5

6 Craig A. Marks
7 Craig A. Marks, PLC
8 10645 N. Tatum Blvd., Ste. 200-676
9 Phoenix, Arizona 85028
10 (480) 367-1956 (Direct)
11 (480) 304-4821 (Fax)
12 Craig.Marks@azbar.org
13 Attorney for Swing First Golf LLC
14

15 Original and 13 copies **filed**
16 on February 25, 2016, with:
17

18 Docket Control
19 Arizona Corporation Commission
20 1200 West Washington
21 Phoenix, Arizona 85007



Exhibit A

968 E. Hunt Highway
San Tan Valley, AZ 85143
Office: (480) 987-9870 Fax: (480) 987-9819

February 19, 2016

Swing First Golf, LLC
30761 N. Golf Club Drive
San Tan Valley, AZ 85143

RE: 5-day Written Notice of Change from Effluent to Non-potable Water

Dear Swing First Golf, LLC:

Beginning on February 24, 2016, Johnson Utilities will begin serving you non-potable water pursuant to the Johnson Utilities tariff. This conversion date coincides with the next billing cycle and provides at least five (5) days advance notice.

Johnson Utilities is making this change for several reasons. By recharging effluent, the Central Arizona Ground Water Replenishment District ("CAGRD") replenishment obligation is reduced by one gallon for every gallon Johnson Utilities recharges. As a result, this significantly improves the states groundwater portfolio. The cost of replenishing that groundwater is passed through to all of Johnson Utilities' potable water customers as a CAGRD Fee on their potable water bills. When effluent is recharged, we believe we can reduce CAGRD expenses by as much as \$4,000,000 per year or almost 80%. Our other 24,742 potable water customers win with this expected expense reduction.

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad Cole", written over a horizontal line.

Brad Cole
Chief Operating Officer
Johnson Utilities, LLC